

## REMARKS

Claims 2-7, 9, 11-13, 25-29, 33-46, 64-65, 73, 77, and 79-92 are pending. Claims 1, 8, 10, 14-24, 30-32, 47-63, 66-72, 74-76, and 78 have been canceled.

1. In response to remand by the Board of Patent Appeals and Interferences, the PTO issued a revised Examiner's Answer, including new grounds of rejection. Applicants hereby request that prosecution be reopened in accordance with 37 C.F.R. 41.39(b)(1).

2. Claims 25-29, 33-46, 65, 73, 74, and 79-89 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

Each of the independent claims 25, 64, and 79 has been amended to positively recite a computer database, computer network, or a computer interface device. As such, each of the recited methods is tied to a particular apparatus. Accordingly, the claims recited patent eligible subject matter.

For at least the foregoing reasons, claims 25-29, 33-46, 65, 73, 74, and 79-89 are directed to statutory subject matter. As such, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. 101 rejection.

3. Claims 79-85 and 86-89 were rejected under 35 U.S.C. 102(a) as being anticipated by Mayaud (US 5,845,255). Applicants respectfully traverse this rejection.

Claim 79 is directed to a computer-implemented method for preparing a prescription including providing a pharmaceutical advertisement to a computer interface device and populating a prescription form for display on the computer interface device based on selection of the pharmaceutical advertisement via the computer interface device.

In the revised Examiner's Answer dated December 9, 2008, the PTO relies on Mayaud for all of the elements of claim 79. Mayaud discloses display of formulary lists of drugs (Mayaud, FIGs. 5 and 6, and col. 35, lines 23-50) and, allegedly, if the physician is satisfied with the formulary drug offered by the prescription management system, the drug may be selected and automatically posted to the prescription (Mayaud, col. 36, lines 26-30). Mayaud defines a drug formulary as a list of preferred drugs contained in a drug benefits plan issued by a drugs benefit

provider to a given patient (Mayaud, col. 1, lines 59-61). Mayaud nowhere discloses an advertisement.

An advertisement, as defined by the online Cambridge Dictionary of American English, is a paid notice that tells people about a product or service. This definition is consistent with use of the term “advertisement” in the specification and by those skilled in the medical arts. As such, this definition is the ordinary and customary meaning of the term “advertisement” and therefore, is the plain meaning to be applied to the term “advertisement.” Accordingly, a drug formulary is clearly distinct from an advertisement as acknowledged by the PTO in the Final Office Action dated March 30, 2005 (Final Office Action, pg. 4).

In particular, in regard to “providing a pharmaceutical advertisement to an interface device,” the PTO relies on Mayaud’s disclosure of a drug list citing the following section:

“In the Select Condition screen of FIG. 5, the patient condition 116 in the Dx Personal category shown comprise generalized groups of disease, some serious like diabetes and pneumonia, and others less so, for example rhinitis or sinusitis. More complex embodiments than the one shown here may categorize conditions into as many as four or five different columns of subcategories of condition according to disease pathology, therapy, personal knowledge and so on. Such condition categorization, as a preliminary to drug listing, provides a very powerful tool for physicians to view their prescribing options on screen and to organize them. Organization of drugs by lists of effectively treated patient conditions enables a user intelligently to access a large body of drug data selections. This approach provides multiple mapping so that the user can find a suitable drug or selection of drugs via different pathways according to their preferred work methods.”

Such a drug list is clearly not an advertisement in accord with the accepted definition provided by the online Cambridge Dictionary. Clearly, Mayaud does not teach or remotely suggest providing a pharmaceutical advertisement to an interface device. Further, Mayaud does not teach or remotely suggest populating a prescription form based on selection of the

pharmaceutical advertisement via the interface device. As such, Mayaud fails to disclose each and every element of claim 79. Therefore, claim 79 is not anticipated by Mayaud.

In addition to the foregoing reasons, aspects of the dependent claims are patentable over the cited references. For example, claim 89 includes additional subject matter not fairly taught or remotely suggested by Mayaud. Claim 89 includes providing a pharmaceutical advertisement based on patient medical data. As above, Mayaud is silent regarding pharmaceutical advertisements. Further, Mayaud is silent regarding providing the pharmaceutical advertisement based on patient medical data. As such, claim 89 is not anticipated by Mayaud and, therefore, is allowable over Mayaud.

For at least the foregoing reasons, claims 79-85 and 86-89 are not anticipated by Mayaud. As such, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. 102(a).

4. Claims 2-7, 9-10, 13, 25-29, 33-44, 64-65, 73, 77, 91, and 92 were rejected under 35 U.S.C. 103(a) as being unpatentable over Angles et al. (US 6,385,592, hereinafter “Angles”) and Coli et al. (US 6,018,713, hereinafter “Coli”) in view of Mayaud. Applicants respectfully traverse this rejection.

To establish a *prima facie* case of obviousness, all the claim features must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

#### I. Claims 2, 3, 4, 5, 6, 7, 9, and 13 are Patentable over the Cited References

Independent claim 2 is directed to a computer system for displaying targeted healthcare advertisements to a computer user. The computer system includes an advertising selecting computer, a device for enabling entry of healthcare related information into the system, a database for storing the healthcare related information and advertising information connected to the advertising selecting computer, and a communications network for transmitting the healthcare related information from the device to the advertising selecting computer for storage in the database. The advertising selecting computer compares the healthcare related information to the advertising information and selects advertising information for display at the device. The

advertising selecting computer transmits via the communications network a pharmaceutical advertisement associated with the advertising information to the device for display. In response to the computer user selecting the displayed pharmaceutical advertisement, a prescription form is automatically populated.

Regarding claim 2, the PTO appears to rely on Angles et al. for disclosure of computer architecture. Angles discloses a system and method for delivering customized electronic advertisements in an interactive communication system. However, the PTO acknowledges that Angles fails to teach entry of healthcare related information, fails to teach the advertising computer transmitting a pharmaceutical advertisement to a device for display via the communication network, and fails to teach a prescription form automatically populated in response to a computer user selecting the displayed pharmaceutical advertisement. As such, the PTO appears to rely on Coli for disclosure of entry of healthcare related information and for disclosure of the advertising computer transmitting a pharmaceutical advertisement to a device for display via the communication network.

Coli discloses a network-based system and method for ordering and cumulative results reporting of medical tests. Coli further discloses that advertising for particular drug treatments or medical devices that may be needed by the patient may be provided as part of the test results reporting output. In particular, displayed drug advertising may be selected based on drugs which are recommended treatments for abnormal clinical results of a particular test. The drug treatment advertisement is hyper-linked to full advisory information about the drug, so that the physician can readily obtain information about that possible treatments for conditions suggested by the test results (Coli, col. 4, lines 26-35). The PTO correctly acknowledges that Angles and Coli fail to teach, in response to a computer user selecting the displayed advertisement, a prescription form is automatically populated. Accordingly, the PTO turns to Mayaud.

Mayaud discloses a wirelessly deployable, electronic prescription creation system for physician use. In addition, Mayaud discloses that a condition-specific, formulary drug list is displayed (Mayaud, col. 35, lines 38-43), and recites “may be selected and automatically posted to the novel prescription described herein (Mayaud, col. 36, lines 26-30).” Mayaud defines a drug formulary as a list of preferred drugs contained in a drug benefits plan issued by a drugs

benefit provider to a given patient (Mayaud, col. 1, lines 59-61). Mayaud nowhere discloses an advertisement.

An advertisement, as defined by the online Cambridge Dictionary of American English, is a paid notice that tells people about a product or service. This definition is consistent with use of the term “advertisement” in the specification and by those skilled in the medical arts. As such, this definition is the ordinary and customary meaning of the term “advertisement” and therefore, is the plain meaning to be applied to the term “advertisement.” Accordingly, a drug formulary is clearly distinct from an advertisement as acknowledged by the PTO in the Final Office Action dated March 30, 2005. Clearly, Mayaud does not teach or remotely suggest a prescription form is automatically populated in response to a computer user selecting the displayed advertisement.

In the revised Examiner’s Answer dated December 9, 2008, the PTO parses the feature “in response to the computer user selecting the displayed pharmaceutical advertisement, a prescription form is automatically populated,” treating each phrase separately. Such parsing destroys the plain meaning of the claim language. The words of the claim must be given their plain meaning unless such meaning is inconsistent with the specification (MPEP 2111). Clearly, treating each phrase separately destroys the plain meaning of the claim. Furthermore, Coli discloses taking actions other than populating a prescription form in response to selecting an advertisement, and Mayaud fails to even mention advertisements. As such, the combination fails to teach or suggest the each and every feature of the claims.

At best, the combination of the cited references would suggest to one of ordinary skill in the art a prescription system with a formulary and a pharmaceutical advertisement in which selection of the pharmaceutical advertisement leads to additional information about the advertised pharmaceutical. As such, the cited references fail to teach or remotely suggest a prescription form is automatically populated in response to a computer user selecting the displayed advertisement and, as such, fail to teach or remotely suggest all of the elements of claim 2.

Claims 3, 4, 5, 6, 7, 9, and 13 depend from claim 2. For at least the foregoing reasons, claims 2, 3, 4, 5, 6, 7, 9, and 13 are allowable over the cited references.

## II. Claims 25, 26, 27, 28, 29, 33, 34, and 73 are Patentable over the Cited References

Independent claim 25 is directed to a computer implemented method for managing health related information. The method includes using patient medical information and healthcare provider information collected from at least one of a plurality of sources and stored in at least one computer database, selecting a healthcare product advertisement for display to a computer interface based on the patient medical information and healthcare provider information, transmitting via a computer network the product advertisement to the computer interface for display, and, in response to selection of the product advertisement via the computer interface, automatically populating a healthcare product order form for display on the computer interface. Claim 73 is directed to a software program embodied on a computer-readable medium incorporating the method as recited in claim 25.

In regards to claim 25, the PTO appears to rely on Angles, Coli, and Mayaud for disclosure of using patient medical information and healthcare provider information collected from at least one of a plurality of sources, selecting a healthcare product advertisement for display to a computer interface based on the patient medical information and healthcare provider information, and transmitting via a computer network the product advertisement to the computer interface for display. However, the PTO correctly acknowledges that Angles and Coli fail to teach in response to selection of the product advertisement, automatically populating a healthcare product order form. Accordingly, the PTO turns to Mayaud.

Mayaud discloses a wirelessly deployable, electronic prescription creation system for physician use. In addition, Mayaud discloses that a condition-specific, formulary drug list is displayed (Mayaud, col. 35, lines 38-43), and recites “may be selected and automatically posted to the novel prescription described herein (Mayaud, col. 36, lines 26-30).” Mayaud defines a drug formulary as a list of preferred drugs contained in a drug benefits plan issued by a drugs benefit provider to a given patient (Mayaud, col. 1, lines 59-61). Mayaud nowhere discloses an advertisement.

An advertisement, as defined by the online Cambridge Dictionary of American English, is a paid notice that tells people about a product or service. This definition is consistent with use of the term “advertisement” in the specification and by those skilled in the medical arts. As

such, this definition is the ordinary and customary meaning of the term “advertisement” and therefore, is the plain meaning to be applied to the term “advertisement.” Accordingly, a drug formulary is clearly distinct from an advertisement as acknowledged by the PTO in the Final Office Action dated March 30, 2005. Clearly, Mayaud does not teach or remotely suggest automatically populating a healthcare product order form in response to a computer user selecting the displayed advertisement.

As above, the PTO parses the claim language in a manner that destroys its plain meaning. When given its plain meaning, the proposed combination fails to teach each and every element of the claims.

At best, the combination of the cited references would suggest to one of ordinary skill in the art a prescription system with a formulary and a pharmaceutical advertisement in which selection of the pharmaceutical advertisement leads to additional information about the advertised pharmaceutical. As such, the cited references fail to teach or remotely suggest automatically populating a healthcare product order form in response to a computer user selecting the displayed advertisement and, as such, fail to teach or remotely suggest all of the elements of claim 25.

Claims 26, 27, 28, 29, 33, 34, 45, 46, and 73 depend from claim 25. For at least the foregoing reasons, claims 25, 26, 27, 28, 29, 33, 34, 45, 46, and 73 are allowable over the cited references.

### III. Claim 35 is Patentable over the Cited References

In addition to the foregoing reasons, claim 35 includes additional subject matter not fairly taught or remotely suggested by the cited references. Claim 35 states that if the prescription contains at least one refill, at least one prescription refill is not sent to the patient-selected pharmacy and is electronically stored for the patient. Claim 35 depends from claim 34 and as such is read in the context of a prescription being sent to a patient-selected pharmacy.

The PTO appears to rely on Mayaud for disclosure of the subject matter of claim 35. Mayaud discloses a Refill field that shows the number of times refilling is permitted (Mayaud, col. 26, lines 33-34). When the drug specification is complete, a Send RX button is pressed to

output the prescription to remote file transfer as an electronic prescription (Mayaud, col. 27, lines 31-35). Mayaud teaches and suggests sending the prescription including any refills. Mayaud is silent regarding not sending at least one prescription refill to the patient-selected pharmacy and electronically storing the prescription refill when the prescription contains at least one refill. Angles, Coli, and their combination with Mayaud fail to overcome this deficiency. As such, Applicants respectfully submit that claim 35 is independently patentable over the cited references.

#### IV. Claim 36 is Patentable over the Cited References

In addition to the foregoing reasons, claim 36 includes additional subject matter not fairly taught or remotely suggested by the cited references. As claimed in claim 36, the electronically stored prescription refill is sent to the patient-selected pharmacy upon request of the patient. Since claim 36 depends from claim 35 which in turn depends from claim 34, claim 36 is to be read in the context of a stored prescription refill that is not sent with the original prescription.

The PTO appears to rely on Mayaud for disclosure of the subject matter of claim 36. As above, Mayaud fails to teach or remotely suggest storing a prescription refill. In addition, Mayaud is silent regarding sending the electronically stored prescription refill upon request of the patient. Angles, Coli, and their combination with Mayaud fail to overcome this deficiency. As such, Applicants respectfully submit that claim 36 is independently patentable over the cited references.

#### V. Claims 37 and 38 are Patentable over the Cited References

In addition to the foregoing reasons, claim 37 includes additional subject matter not fairly taught or remotely suggested by the cited references. In claim 37, the patient medical information includes drugs the patient is allergic to and, in the selecting step, filtering pharmaceutical advertisements for drugs the patient is allergic to prior to display.

The PTO appears to rely on Mayaud's disclosure of a Problem button (Mayaud, FIG. 3), which shows a patient problem history. However, Mayaud is silent regarding filtering pharmaceutical advertisements and, in particular, is silent regarding filtering pharmaceutical advertisements for drugs the patient is allergic to prior to display. Angles, Coli, and their



combination with Mayaud fail to overcome this deficiency. As such, Applicants respectfully submit that claim 37 is independently patentable over the cited references.

#### VI. Claim 39 is Patentable over the Cited References

In addition to the foregoing reasons, claim 39 includes additional subject matter not fairly taught or remotely suggested by the cited references. Claim 39 is directed to the method wherein filtering comprises displaying the pharmaceutical advertisement with a warning.

Angles, Coli, and Mayaud are silent regarding displaying the pharmaceutical advertisement with a warning in the context of filtering a pharmaceutical advertisement for drugs the patient is allergic to prior to display. Coli discloses that if an appropriate sponsored drug or item is identified, the advertisement for that drug or item is transmitted to the physician terminal with the test results, and displayed in a format that highlights the determination by the expert system that the physician may wish to consider this drug as a treatment. This highlighting may be textual, such as display of "Expert System Recommends Consideration:" visual, such as distinctive coloration of the ad or its border, audible, or may use any other highlighting method which will convey to the physician the determination of the expert system that this drug may be worthy of consideration (Coli, col. 17, lines 4-10). However, Coli and the other cited references, separately and in combination, fail to teach displaying the pharmaceutical advertisement with a warning in the context of filtering pharmaceutical advertisements for drugs to which the patient is allergic. As such, Applicants respectfully submit that claim 39 is independently patentable over the cited references.

#### VII. Claim 40 is Patentable over the Cited References

In addition to the foregoing reasons, claim 40 includes additional subject matter not fairly taught or remotely suggested by the cited references. As claimed in claim 40, the patient medical information includes drugs for which the patient has had adverse reactions, and, in the selecting step, filtering pharmaceutical advertisements for drugs that the patient has had adverse reactions.

The PTO appears to rely on Mayaud's disclosure of a Problem button (Mayaud, FIG. 3), which shows a patient problem history. However, Mayaud is silent regarding filtering pharmaceutical advertisements and, in particular, is silent regarding filtering pharmaceutical

advertisements for drugs in which the patient has had adverse reactions. Angles, Coli, and their combination with Mayaud fail to overcome this deficiency. As such, Applicants respectfully submit that claim 40 is independently patentable over the cited references.

#### VIII. Claims 41 and 42 are Patentable over the Cited References

In addition to the foregoing reasons, claim 41 includes additional subject matter not fairly taught or remotely suggested by the cited references. As recited in claim 41, the patient medical information includes drugs selected from the group consisting of drugs for which the patient has had an adverse reaction, drugs in the same class as drugs for which the patient has had an adverse reaction, drugs for which the patient's family has a history of adverse reactions, drugs for which genetic profiling has indicated the patient may have an adverse reaction, and drugs which may interact adversely with drugs the patient is currently taking, and in the selecting step, determining pharmaceutical advertisements for drugs from the group and filtering said pharmaceutical advertisements.

The PTO appears to rely on Mayaud's disclosure of a Problem button (Mayaud, FIG. 3), which shows a patient problem history. However, Mayaud is silent regarding filtering pharmaceutical advertisements and, in particular, is silent regarding filtering pharmaceutical advertisements for drugs from the above group. Angles, Coli, and their combination with Mayaud fail to overcome this deficiency. As such, Applicants respectfully submit that claims 41 and 42 are patentable over the cited references.

#### IX. Claim 43 is Patentable over the Cited References

In addition to the foregoing reasons, claim 43 includes additional subject matter not fairly taught or remotely suggested by the cited references. Claim 43 is directed to the method wherein filtering comprises displaying the pharmaceutical advertisement with a warning.

Angles, Coli, and Mayaud are silent regarding displaying the pharmaceutical advertisement with a warning in the context of filtering a pharmaceutical advertisement for drugs from the group of claim 41. Coli further discloses if an appropriate sponsored drug or item is identified, the advertisement for that drug or item is transmitted to the physician terminal with the test results, and displayed in a format that highlights the determination by the expert system

that the physician may wish to consider this drug as a treatment. This highlighting may be textual, such as display of "Expert System Recommends Consideration:" visual, such as distinctive coloration of the ad or its border, audible, or may use any other highlighting method which will convey to the physician the determination of the expert system that this drug may be worthy of consideration (Coli, col. 17, lines 4-10). However, Coli and the other cited references, separately and in combination, fail to teach or even suggest displaying the pharmaceutical advertisement with a warning in the context of filtering pharmaceutical advertisements. As such, Applicants respectfully submit that claim 43 is independently patentable over the cited references.

#### X. Claim 44 is Patentable over the Cited References

In addition to the foregoing reasons, claim 44 includes additional subject matter not fairly taught or remotely suggested by the cited references. As claimed in claim 44, the patient medical information includes drugs the patient is currently taking, and in the selecting step, determining pharmaceutical advertisements for drugs that are not included in the formulary of the patient's insurance company.

The PTO appears to rely on Mayaud's disclosure of a Problem button (Mayaud, FIG. 3), which shows a patient problem history. However, Mayaud is silent regarding filtering pharmaceutical advertisements and, in particular, is silent regarding filtering pharmaceutical advertisements for drugs not included in the formulary of the patient's insurance company. Angles, Coli, and their combination with Mayaud fail to overcome this deficiency. As such, Applicants respectfully submit that claim 44 is independently patentable over the cited references.

#### XI. Claims 64, 65 and 77 are Patentable over the Cited References

Independent claim 64 is directed to a computer-implemented method of displaying targeted healthcare product information. The method includes using medical information stored in at least one computer database from a plurality of sources. The sources include (i) for a selected patient, a patient's medical history, (ii) healthcare provider information, and (iii) prescription writing habits of a healthcare provider. The method also includes associating the

medical information from the at least one of the plurality of sources with healthcare advertisement information stored in at least one advertisement computer database to select a healthcare advertisement for display to a user. The method further includes transmitting via a computer network the healthcare advertisement for electronically displaying to the user via a computer interface, and, in response to selection of the healthcare advertisement, automatically populating a healthcare product order form for display in the computer interface. Claim 77 is directed to a software program embodied on a computer-readable medium incorporating the method as recited in claim 64.

In regards to claim 64, the PTO appears to rely on Angles and Coli for teaching elements including using stored medical information, associated the medical information, and transmitting the healthcare advertisement. Applicants respectfully disagree that the combination of Angles and Coli suggest, for example, using stored medical information from a patient medical history, healthcare provider information and prescription writing habits of a healthcare provider. However, the PTO correctly acknowledges that Angles and Coli fail to teach or suggest in response to selection of the healthcare advertisement, automatically populating a healthcare product order form. Accordingly, the PTO turns to Mayaud,

Mayaud discloses a wirelessly deployable, electronic prescription creation system for physician use. In addition, Mayaud discloses that a condition-specific, formulary drug list is displayed (Mayaud, col. 35, lines 38-43), and recites “may be selected and automatically posted to the novel prescription described herein (Mayaud, col. 36, lines 26-30).” Mayaud defines a drug formulary as a list of preferred drugs contained in a drug benefits plan issued by a drugs benefit provider to a given patient (Mayaud, col. 1, lines 59-61). Mayaud nowhere discloses an advertisement.

An advertisement, as defined by the Online Cambridge Dictionary of American English, is a paid notice that tells people about a product or service. This definition is consistent with use of the term “advertisement” in the specification and by those skilled in the medical arts. As such, this definition is the ordinary and customary meaning of the term “advertisement” and therefore, is the plain meaning to be applied to the term “advertisement.” Accordingly, a drug formulary is clearly distinct from an advertisement as acknowledged by the PTO in the Final

Office Action dated March 30, 2005. Clearly, Mayaud does not teach or remotely suggest automatically populating a healthcare product order form in response to selection of the healthcare advertisement.

As above, the PTO parses the claim language in a manner that destroys its plain meaning. When given its plain meaning, the proposed combination fails to teach each and every element of the claims.

At best, the combination of the cited references would suggest to one of ordinary skill in the art a prescription system with a formulary and a pharmaceutical advertisement in which selection of the pharmaceutical advertisement leads to additional information about the advertised pharmaceutical. As such, the cited references fail to teach or remotely suggest automatically populating a healthcare product order form in response to selection of the healthcare advertisement and, as such, fail to teach or remotely suggest all of the elements of claim 64.

Claims 65 and 77 depend from claim 64. For at least the foregoing reasons, claims 64, 65, and 77 are allowable over the cited references.

#### XII. Claim 91 is Patentable over the Cited References

Independent claim 91 is directed to a computer system for displaying targeted healthcare advertisements. The computer system includes an advertising selecting computer, a device for enabling entry of healthcare related information into the system, a database for storing the healthcare related information and advertising information, and a communications network for transmitting the healthcare related information from the device to the advertising selecting computer for storage in the database. The database is connected to the advertising selecting computer. The advertising selecting computer compares the healthcare related information to the advertising information and selects a pharmaceutical advertisement for display at the device. The advertising selecting computer transmits via the communications network the pharmaceutical advertisement to the device for display. In response to a computer user selecting the displayed pharmaceutical advertisement, a prescription is initiated based on the healthcare related information.

Regarding claim 91, the PTO appears to rely on Angles for disclosure of computer architecture. Angles discloses a system and method for delivering customized electronic advertisements in an interactive communication system. By reference to a previous claim rejection, the PTO appears to acknowledge that Angles fails to teach entry of healthcare related information, fails to teach the advertising computer transmitting a pharmaceutical advertisement to a device for display via the communication network, and fails to teach a prescription form automatically populated in response to a computer user selecting the displayed pharmaceutical advertisement. As such, the PTO appears to rely on Coli for disclosure of entry of healthcare related information and for disclosure of the advertising computer transmitting a pharmaceutical advertisement to a device for display via the communication network.

Coli discloses a network-based system and method for ordering and cumulative results reporting of medical tests. Coli further discloses that advertising for particular drug treatments or medical devices that may be needed by the patient may be provided as part of the test results reporting output. In particular, displayed drug advertising may be selected based on drugs which are recommended treatments for abnormal clinical results of a particular test. The drug treatment advertisement is hyper-linked to full advisory information about the drug, so that the physician can readily obtain information about possible treatments for conditions suggested by the test results (Coli, col. 4, lines 26-35). By reference to a previous claim rejection, the PTO appears to correctly acknowledge that Angles and Coli fail to teach, in response to a computer user selecting the displayed advertisement, a prescription is initiated based on the healthcare related information. Accordingly, the PTO turns to Mayaud.

Mayaud discloses a wirelessly deployable, electronic prescription creation system for physician use. In addition, Mayaud discloses that a condition-specific, formulary drug list is displayed (Mayaud, col. 35, lines 38-43), and recites “may be selected and automatically posted to the novel prescription described herein (Mayaud, col. 36, lines 26-30).” Mayaud defines a drug formulary as a list of preferred drugs contained in a drug benefits plan issued by a drugs benefit provider to a given patient (Mayaud, col. 1, lines 59-61). Mayaud nowhere discloses an advertisement.

An advertisement, as defined by the online Cambridge Dictionary of American English, is a paid notice that tells people about a product or service. This definition is consistent with use of the term “advertisement” in the specification and by those skilled in the medical arts. As such, this definition is the ordinary and customary meaning of the term “advertisement” and therefore, is the plain meaning to be applied to the term “advertisement.” Accordingly, a drug formulary is clearly distinct from an advertisement as acknowledged by the PTO in the Final Office Action dated March 30, 2005. Clearly, Mayaud does not teach or remotely suggest a prescription is initiated based on the healthcare related information in response to a computer user selecting the displayed pharmaceutical advertisement.

As above, the PTO parses the claim language in a manner that destroys its plain meaning. When given its plain meaning, the proposed combination fails to teach each and every element of the claims.

At best, the combination of the cited references would suggest to one of ordinary skill in the art a prescription system with a formulary and a pharmaceutical advertisement in which selection of the pharmaceutical advertisement leads to additional information about the advertised pharmaceutical. As such, the cited references fail to teach or remotely suggest a prescription is initiated based on the healthcare related information in response to a computer user selecting the displayed pharmaceutical advertisement, and, as such, fail to teach or remotely suggest all of the elements of claim 91. Therefore, claim 91 is patentable over the cited references.

### XIII. Claim 92 is Patentable over the Cited References

Independent claim 92 is directed to a computer implemented method for managing health related information. The method includes using patient medical information and healthcare provider information stored in a computer database and collected from at least one of a plurality of sources, selecting a healthcare product advertisement for display to a computer interface device based on the patient medical information and healthcare provider information, transmitting via a computer network the product advertisement to the computer interface device for display, and, in response to selection of the product advertisement, automatically initiating a

healthcare product order based on the patient medical information for display on the computer interface device.

Regarding claim 92, the PTO appears to rely on Angles, Coli, and Mayaud for disclosure of using patient medical information and healthcare provider information collected from at least one of a plurality of sources, selecting a healthcare product advertisement for display to a computer interface device based on the patient medical information and healthcare provider information, and transmitting via a computer network the product advertisement to the computer interface device for display. The PTO appears to correctly acknowledge that Angles and Coli fail to teach, in response to selection of the product advertisement, automatically initiating a healthcare product order form based on the patient medical information. Accordingly, the PTO turns to Mayaud.

Mayaud discloses a wirelessly deployable, electronic prescription creation system for physician use. In addition, Mayaud discloses that a condition-specific, formulary drug list is displayed (Mayaud, col. 35, lines 38-43), and recites “may be selected and automatically posted to the novel prescription described herein (Mayaud, col. 36, lines 26-30).” Mayaud defines a drug formulary as a list of preferred drugs contained in a drug benefits plan issued by a drugs benefit provider to a given patient (Mayaud, col. 1, lines 59-61). Mayaud nowhere discloses an advertisement.

An advertisement, as defined by the Online Cambridge Dictionary of American English, is a paid notice that tells people about a product or service. This definition is consistent with use of the term “advertisement” in the specification and by those skilled in the medical arts. As such, this definition is the ordinary and customary meaning of the term “advertisement” and therefore, is the plain meaning to be applied to the term “advertisement.” Accordingly, a drug formulary is clearly distinct from an advertisement as acknowledged by the PTO in the Final Office Action dated March 30, 2005. Clearly, Mayaud does not teach or remotely suggest automatically initiating a healthcare product order form based on the patient medical information in response to selection of the product advertisement.



As above, the PTO parses the claim language in a manner that destroys its plain meaning. When given its plain meaning, the proposed combination fails to teach each and every element of the claims.

At best, the combination of the cited references would suggest to one of ordinary skill in the art a prescription system with a formulary and a pharmaceutical advertisement in which selection of the pharmaceutical advertisement leads to additional information about the advertised pharmaceutical. As such, the cited references fail to teach or remotely suggest automatically initiating a healthcare product order form based on the patient medical information in response to selection of the product advertisement, and, as such, fail to teach or remotely suggest all of the elements of claim 92. Therefore, claim 92 is patentable over the cited references.

For at least the foregoing reasons, claims 2-7, 9-10, 13, 25-29, 33-44, 64-65, 73, 77, 91, and 92 are patentable over the cited references. As such, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. 103(a) rejections.

5. Claim 11-12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Angles and Coli and Mayaud, further in view of “GoToWorld.com Named Fastest Growing Web Browser in World” by PR Newswire (hereinafter “Newswire”). Applicants respectfully traverse this rejection.

Claims 11 and 12 depend from independent claim 2. As stated above, Angles, Coli and Mayaud fail to teach or suggest the features of claim 2. Newswire fails to overcome the deficiencies of the proposed combination of Angles, Coli and Mayaud.

For example, in addition to the foregoing reasons stated in relation to claim 2, claim 12 includes the advertising selecting computer calculates a revenue amount to be paid to a healthcare provider for referring patients to a health information website. The PTO correctly acknowledges that Angles, Coli, and Mayaud fail to explicitly teach calculating a revenue amount to be paid to the healthcare provider for referring patients to a health information website. Accordingly, the PTO turns to the Newswire.

Newswire is an article regarding GoToWorld.com and paying internet surfers for using a particular web browser and for referring other internet surfers to use the web browser. Newswire

does not teach or suggest compensating a user of a system for referring a third party to a separate website. As such, when combined with the cited references, Newswire does not teach or suggest calculating an amount to be paid to a healthcare provider for referring patients to a health information website.

Even if the combination were suggested by the references, the combination, at best, would include a healthcare provider system in which the healthcare provider is compensated for referring other healthcare providers to use the healthcare provider system. Such a combination, in no way, would teach or remotely suggest an advertising selecting computer calculates a revenue amount to be paid to a healthcare provider for referring patients to a health information website.

For at least the foregoing reasons, claims 11 and 12 are patentable over the cited references in further view of Newswire. As such, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. 103(a) rejection.

6. Claims 45-46 were rejected under 35 U.S.C. 103(a) as being unpatentable over Angles and Coli and Mayaud in view of Davis et al. (US 2001/0042064, hereinafter “Davis”). Applicants respectfully traverses this rejection.

Claims 45 and 46 depend indirectly from independent claim 25. As stated above, the proposed combination of Angles, Coli, and Mayaud fail to teach or suggest the recited method of claim 25. Davis is directed to a system and method for enabling information providers using a computer network such as the Internet to influence a position for a search listing within a search result list generated by an Internet search engine. The system and method provide a database having accounts for the network information providers. Davis fails to overcome the deficiencies of the proposed combination of Angles, Coli and Mayaud.

For at least the foregoing reasons, claims 45 and 46 are patentable over Angles, Coli, and Mayaud in further view of Davis. As such, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. 103(a) rejection.

7. Claims 86 and 90 were rejected under 35 U.S.C. 103(a) as being unpatentable over Mayaud and Angles.

Claim 86 depends from independent claim 79. As stated above, independent claim 79 is patentable over the cited references. For at least the foregoing reasons, claim 86 is also patentable over the cited references.

Claim 90 is directed to a computer system including a processor and storage accessible to the processor. The storage includes program instructions operable by the processor to provide a pharmaceutical advertisement to an interface device and includes program instructions operable by the processor to populate a prescription form based on selection of the pharmaceutical advertisement via the interface device.

Mayaud discloses a wirelessly deployable, electronic prescription creation system for physician use. In addition, Mayaud discloses that a condition-specific, formulary drug list is displayed (Mayaud, col. 35, lines 38-43), and recites “may be selected and automatically posted to the novel prescription described herein (Mayaud, col. 36, lines 26-30).” Mayaud defines a drug formulary as a list of preferred drugs contained in a drug benefits plan issued by a drugs benefit provider to a given patient (Mayaud, col. 1, lines 59-61). Mayaud nowhere discloses an advertisement.

An advertisement, as defined by the Online Cambridge Dictionary of American English, is a paid notice that tells people about a product or service. As such, a drug formulary is clearly distinct from an advertisement as acknowledged by the PTO in the Final Office Action dated March 30, 2005. Clearly, Mayaud does not teach or remotely suggest program instructions operable by the processor to populate a prescription form based on selection of the pharmaceutical advertisement via the interface device.

Angles fails to overcome the deficiencies of Mayaud. Angles discloses a system and method for delivering customized electronic advertisements in an interactive communication system. However, Angles fails to teach or remotely suggest program instructions operable by the processor to populate a prescription form based on selection of the pharmaceutical advertisement via the interface device.

At best, the combination of the cited references would suggest to one of ordinary skill in the art a prescription system with a formulary drug list and an advertisement. The cited

references fail to teach or remotely suggest program instructions operable by the processor to populate a prescription form based on selection of the pharmaceutical advertisement via the interface device and, as such, fail to teach or remotely suggest all of the elements of claim 90. As such, Applicants respectfully submit that claim 90 is allowable over Mayaud and Angles et al.

For at least the foregoing reasons, claims 86 and 90 are patentable over Mayaud and Angles. As such, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. 103(a) rejection.

Applicant(s) respectfully submit that the present application is now in condition for allowance. Accordingly, the Examiner is requested to issue a Notice of Allowance for all pending claims.

Should the Examiner deem that any further action by the Applicants would be desirable for placing this application in even better condition for issue, the Examiner is requested to telephone Applicants' undersigned representative at the number listed below.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-3797.

2/9/09

\_\_\_\_\_  
Date

Respectfully submitted,

/john r. schell/

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